

## Message Text

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PAGE 01 LAGOS 10630 260820Z  
ACTION AF-10

INFO OCT-01 ISO-00 DODE-00 AID-05 EB-08 COME-00  
CIAE-00 INR-10 NSAE-00 /034 W  
-----119129 262207Z /75  
R 251610Z AUG 78  
FM AMEMBASSY LAGOS  
TO SECSTATE WASHDC 242

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E.O. 11652: N/A  
TAGS: EWWT, EAID, BENC, NI  
SUBJECT: PROCEDURES FOR PERFORMING A&E WORK IN NIGERIA

REF: (A) STATE 203007, (B) STATE 194131, (C) LAGOS 9245

1. REPLY IS IN THE ORDER OF QUESTIONS PRESENTED IN REFS A  
AND B.

A. INCORPORATION IN NIGERIA IS GOVERNED BY PART 10 OF  
THE COMPANIES DECREE OF 1968. DECREE NO. 51 OF THE ABOVE  
STATUTE REQUIRES THAT EVERY FOREIGN CORPORATION OR PERSON  
DESIROUS OF ESTABLISHING A BUSINESS IN NIGERIA MUST IN-  
CORPORATE UNDER THE ABOVE-MENTIONED SECTIONS. HOWEVER,  
THE COMPANIES (SPECIAL PROVISIONS) DECREE 1973 WHICH  
WAS PROMULGATED ON APRIL 13, 1973 ALLOWS FOR CERTAIN  
CATEGORIES OF FOREIGN COMPANNIES TO APPLY FOR EXEMPTION  
FROM THE PROVIISONS OF PART 10 OF THE COMPANIES DECREE  
1968. ALTHOUGH NEITHER THE STATUTE NOR THE  
INDIGENIZATION DECREE (DECREE) MENTIONS OR DISCUSSES  
SUBCONTRACTORS, AN ARGUMENT COULD BE MADE THAT THE  
RULES APPLICABLE TO A CONTRACTOR WOULD APPLY TO A SUB-  
CONTRACTOR. THE FOLLOWING EXCEPTIONS REGARDING COMPANY  
INCORPORATION APPEAR TO EXIST:

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PAGE 02 LAGOS 10630 260820Z

(I) FOREIGN COMPANIES INVITED WITH THE APPROVAL OF THE  
GOVERNMENT TO EXECUTE SPECIAL PROJECT.  
(II) FOREIGN COMPANIES WHICH ARE IN NIGERIA FOR THE  
EXECUTION OF SPECIFIC LOAN PROJECTS ON BEHALF OF DONOR  
COUNTRIES OR INTERNATIONAL ORGANIZATIONS.  
(III) FOREIGN GOVERNMENT-OWNED COMPANIES ENGAGED SOLELY  
IN EXPORT PROMOTION ACTIVITIES.

(IV) ENGINEERING CONSULTANTS AND TECHNICAL EXPERTS ENGAGED ON SPECIALIST PROJECTS UNDER CONTRACTS WITH ANY OF THE GOVERNMENTS OF THE FEDERATION OR OF ANY OF THEIR AGENCIES OR WITH ANY OTHER BODY OR PERSON WHERE SUCH CONTRACTS HAVE BEEN APPROVED BY THE FEDERAL GOVERNMENT.

BASED ON THE ABOVE, AS LONG AS TETRA TECH, INC. WORKS ONLY ON THE SPECIFIC COE GOVERNMENTAL CONTRACT, IT WOULD OSTENSIBLY QUALIFY UNDER ONE OR H43 9\* 5#3 -?9;3 3/EMPTIVE PROVISIONS.

B. NO RESPONSE.

C. A&E FIRMS ARE SUBJECT TO THE DECREE. THE ABOVE-MENTIONED RULTES AND REGULATIONS DO NOT SPECIFICALLY ADDRESS THE PROPOSALS OUTLINED IN REF A AND B. EMBASSY, BASED ON DISCUSSIONS WITH A REPRESENTATIVE OF NIGERIAN ENTERPRISE PROMOTION BOARD IS OF THE OPINION THAT GIVEN THE BROAD PURPOSE AND INTENT OF THE DECREE, IT WILL BE STRICTLY CONSTRUED. A&E ACTIVITIES OUTSIDE THE UMBRELLA OF THE LISTED EXCEPTIONS WOULD SUBJECT IT TO THE INDIGENIZATION DECREE.

2. COMMENT. NIGERIAN AUTHORITIES HAVE BEEN SCRUTINIZING CAREFULLY THE CONTRACTS AND ACTIVITIES OF FOREIGN LIMITED OFFICIAL USE

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PAGE 03 LAGOS 10630 260820Z

CORPORATIONS IN RECENT MONTHS. EVEN THOUGH THE PROPOSED COE/FMG CONTRACT WOULD BE A GOVERNMENT-TO-GOVERNMENT AGREEMENT, TETRA TECH, INC.'S ACTIVITIES COULD CONCEIVABLY BE CHALLENGED AS BEING OUTSIDE THE EXCEPTIONS AND SUBJECT TO SCHEDULE 2 OR 3 CLASSIFICATION.  
WYMAN

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NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** PROPOSALS (BID)  
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**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1978LAGOS10630  
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**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
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**Original Handling Restrictions:** n/a  
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**Reference:** 78 STATE 203007, 78 STATE 194131, 78 LAGOS 9245  
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**Subject:** PROCEDURES FOR PERFORMING A&E WORK IN NIGERIA  
**TAGS:** EWWT, EAID, BENC, NI  
**To:** STATE  
**Type:** TE  
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**Review Markings:**  
Sheryl P. Walter  
Declassified/Released  
US Department of State  
EO Systematic Review  
20 Mar 2014  
**Markings:** Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014